

Article 6: Development Permits

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Division 1: General Development Permit Procedures

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0101 Purpose of Development Review Procedures

The purpose of these procedures is to provide a review for the types of *developments* where the applicable regulations may need to be supplemented by project-specific conditions. Development review is not required for all projects. When development review is required, the intent is to provide review at the conceptual or schematic design stage preceding issuance of *construction permits*. A variety of *development permits* are provided with varying levels of review to address the variety in size, location, and complexity of *developments* throughout the City.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0102 When Development Permit Procedures Apply

The following permits require development review and the *development permit* procedures apply to these permits: Neighborhood Use Permits, Conditional Use Permits, Neighborhood Development Permits, Site Development Permits, Planned Development Permits, Coastal Development Permits, and Variances.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0103 How to Apply for a Development Permit

An *applicant* for a *development permit* shall file an application for one or more permits, as required, in accordance with Section 112.0102.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0104 Decision Processes for a Development Permit

A decision on an application for a *development permit* shall be made in accordance with Process Two, Process Three, Process Four, or Process Five as indicated in Chapter 12, Article 6, Divisions 1 through 8, for each type of *development permit*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0105 Findings for Development Permit Approval

An application for a *development permit* may be approved only if the decision maker determines that the *development*, as proposed or as conditioned, meets all *findings* for all required permits as provided in Chapter 12, Article 6, Divisions 2 through 8. If the decision maker determines that any of the *findings* are not met, the application shall be denied. The decision maker shall record the decision in writing and shall specify the evidence or statements presented that support the *findings*.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§126.0106 Recordation of a Development Permit

- (a) *Development permits* affect title to, use of, or possession of real property and shall be recorded in the Office of the County Recorder of San Diego County.
- (b) After the date on which all rights of appeal have expired, the *applicant* shall sign and return a copy of the approved permit to the City. The City will forward the permit and the resolution approving the permit to the County Recorder for recordation. Before the City forwards the permit for recordation, the *applicant* may submit a request in writing to the City Manager that the City obtain a certified copy of the permit from the County Recorder. The *applicant* shall pay the fees to obtain the certified copy.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0107 Issuance of a Development Permit

- (a) A *development permit* will be issued to the *applicant* within 5 *business days* of the date on which the original recorded permit or a certified copy of the permit is returned to the City from the County Recorder.
- (b) It is unlawful for any *applicant* to begin work or use of the property that is authorized by a *development permit* until the *development permit* has been issued. If a *construction permit* is also required, construction may not begin until the *construction permit* has been issued.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0108 Initial Utilization of a Development Permit

- (a) A *development permit* grants the *applicant* 36 months to initiate utilization of the permit. If none of the actions listed in Section 126.0108(b) has occurred within 36 months after the date on which all rights of appeal have expired, the *development permit* shall be void.
- (b) A *development permit* may be utilized by the following methods:

- (1) Issuance of a *construction permit* for the entire project or for a substantial portion of the activity regulated by the *development permit*, as determined by standards developed by the City Manager;
- (2) Compliance with the terms contained in the individual permit, such as a phasing program, or the terms contained in an approved Development Agreement;
- (3) Evidence of substantial use in progress, according to standards as developed by the City Manager; or
- (4) Approval of a *final map* or a *parcel map*, if the map was a condition of the *development permit*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0109 Maintaining Utilization of a Development Permit

- (a) If issuance of a *construction permit* in accordance with Section 126.0108 is the method used for initial utilization of the *development permit*, the *construction permit* shall be kept active until completion of the final inspection or issuance of the certificate of occupancy to maintain utilization of the *development permit*.
- (b) If the *construction permit* is allowed to expire before completion of the project, the initial utilization of the *development permit* gained by that *construction permit* shall become void.
- (c) A *development permit* that is voided in accordance with 126.0109(b) may be reactivated by obtaining a new *construction permit* either during the original 36-month timetable for that *development permit*, or during the timeline as may have been extended in accordance with Section 126.0111.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§126.0110 Cancellation of a Development Permit

- (a) An owner or permittee may request cancellation of a *development permit* at any time before initial utilization of the permit. The owner or permittee shall submit the request for cancellation in writing to the City Manager. The *development permit* shall not be canceled less than 120 calendar days after the request is received by the City Manager. The City shall forward a written declaration of the cancellation to the County Recorder for recordation

in accordance with Section 126.0106. The *development permit* shall be void on the date that the declaration of cancellation is recorded with the County Recorder. The City shall mail a copy of the declaration of cancellation to the owner permittee.

- (b) Once a *development permit* has been utilized, an owner or permittee may submit an application to rescind the *development permit* in accordance with the following:
 - (1) Where the *development* complies with all use and *development* regulations the application to rescind a *development permit* shall be processed in accordance with Process One.
 - (2) For *development* not in compliance with Section 126.0110(b)(1), an application to rescind a *development permit* shall be processed in accordance with the same process as would a new application for the same permit.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

§126.0111 Extension of Time of a Development Permit

- (a) Expiration Date. The expiration date of an approved *development permit* may be extended one or more times, provided the extensions do not exceed a total of 36 months beyond the expiration of the initial utilization period. When a *development permit* is associated with a *tentative map*, any map extensions granted pursuant to state law shall automatically extend the expiration of associated *development permits* to coincide with the expiration of the *tentative map*. This extension of time shall not be subject to the 36 month restriction.
- (b) Request for Extension. Before the expiration of an approved *development permit*, but not more than 60 calendar days before the expiration date, an *applicant* may file an application for an extension of time to a *development permit* in accordance with Section 112.0102. If an application for extension of time is filed, the *development permit* shall be automatically extended for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs last.
- (c) Review of Application. An application for an extension of time of a *development permit* shall be reviewed by the City Manager to determine whether the proposed *development* has significantly changed or is in *substantial conformance* with the approved *development permit*. If the proposed *development* is not in *substantial conformance* with the approved *development permit*, an application for an amendment to the *development permit* will be required. An *applicant* for an extension of time may also submit an application for, and concurrently process, an amendment to the approved *development permit* in order to extend the existing permit in case the extension of time request is denied.
- (d) Decision Process. A decision on an application for an extension of time of a *development permit* shall be made in accordance with the same process required for a new application for the same *development permit*.

- (e) *Findings for Approval.* An extension of time, except for a Coastal Development Permit, may be approved without new conditions if the decision maker makes both of the following *findings*:
 - (1) The project as originally approved and without any new conditions would not place the occupants of the proposed *development* or the immediate community in a condition dangerous to their health or safety; and
 - (2) No new condition is required to comply with state or federal law.
- (f) *Findings for Conditional Approval.* An extension of time, except for a Coastal Development Permit, may be approved with new conditions if the decision maker makes one of the following *findings*:
 - (1) New conditions are necessary to protect the health or safety of the residents of the *development* or the immediate community; or
 - (2) New conditions are necessary to comply with applicable state or federal law.
- (g) *Findings for Approval for Extension of Time for a Coastal Development Permit.* An extension of time for a Coastal Development Permit may be approved only if the decision maker makes all of the following findings:
 - (1) The project as originally approved would not place the occupants of the proposed *development* or the immediate community in a condition dangerous to their health and safety;
 - (2) There are no changed circumstances which would affect the project's consistency with the *Local Coastal Program*; and
 - (3) No new condition is required to comply with state or federal law.
- (h) *Denial of the Extension of Time.* The decision maker shall deny the extension of time if the project, even as conditioned, would place the residents of the proposed *development* or the immediate community in a condition dangerous to their health or safety, or would not comply with state or federal law.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

[Editors Note: Amendments as adopted by O-20081 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language
http://docs.sandiego.gov/municode_strikeout_ord/O-20081-SO.pdf]

§126.0112 Minor Modifications to a Development Permit

A proposed minor modification to an approved *development permit* may be submitted to the City Manager to determine if the revision is in *substantial conformance* with the approved permit. If the revision is determined to be in *substantial conformance* with the approved permit, the revision shall not require an amendment to the *development permit*. Within the Coastal Overlay Zone, any *substantial conformance* determination shall be reached through a Process Two review.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§126.0113 Amendments to a Development Permit

- (a) A proposed revision to an approved *development permit* that would significantly reduce the scope of the *development* or is not in *substantial conformance* with the approved permit requires an amendment to the approved permit or an application for a new permit.
- (b) A proposed change in use from one use category to another or the change, addition, or deletion of a use within the same use category may require an amendment to a Neighborhood Use Permit or a Conditional Use Permit, depending on the uses allowed by the permit.
- (c) An application for an amendment to a *development permit* shall be acted upon in accordance with the same process as would a new application for the same permit. When a *development permit* includes existing land uses that would not be permitted as new uses by the underlying base zone, the amendment application shall nevertheless be acted upon in accordance with the same process as the original *development permit*. The application is subject to environmental review and will be evaluated in accordance with the State California Environmental Quality Act (CEQA) Guidelines, Sections 15162-15164. The decision maker may revise existing conditions or impose new conditions.
- (d) An amendment to an existing *development permit* will not affect the original expiration date of the permit, unless a change is specifically requested. In such cases, the application must be *deemed complete* prior to the *development permit* expiration date and the *development permit* will automatically be extended until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted.
- (e) Within the Coastal Overlay Zone, a proposed change in use which will result in a change in intensity of use requires an amendment or a new Coastal Development Permit.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

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§126.0114 Closing of Development Permit Application

The *development permit* application file shall be closed if the *applicant* fails to submit or resubmit requested materials, information, fees, or deposits 90 calendar days from the date the application was deemed complete or the last written request by the City, whichever is later. Once closed, the application, plans and other data submitted for review may be returned to the *applicant* or destroyed by the City Manager. To reapply, the *applicant* shall submit a new *development permit* application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete. (“Closing of Development Permit Application” added 6-3-2003 by O-19187 N.S.)

§126.0115 Tolling of a Development Permit

- (a) An *applicant* may request a tolling of the expiration of an approved or conditionally approved *development permit* for up to 5 years while a lawsuit involving the approval or conditional approval of the *development permit* is or was pending in a court of competent jurisdiction.
- (b) A request to toll the process must be submitted prior to expiration of the *development permit*.
- (c) A decision regarding a request to toll the expiration date for a *development permit* shall be made in accordance with Process One.
- (d) A request to toll the expiration date for a *development permit* shall be granted within 40 days of the date of application if it can be demonstrated to the satisfaction of the City Manager that:
 - (1) A lawsuit was filed that is related to the processing of an approved or conditionally approved *development permit*; and
 - (2) Tolling of the expiration date for up to 5 years during the lawsuit would allow time for the *applicant* to address associated court orders or procedures related to processing of the *development permit*.

- (e) Upon resolution of the lawsuit, the *applicant* shall contact the City Manager to request the adjusted expiration date for the approved or conditionally approved *development permit*. The adjusted expiration date shall allow tolling as follows:
- (1) The credited time for the tolling period shall be limited to the time period between the date the petition or complaint in the lawsuit was filed and the date the lawsuit was officially resolved.
- (2) The credited time for the tolling period shall not exceed 5 years.

(“Tolling of a Development Permit” added 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

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